

UNITED STATES BANKRUPTCY COURT  
Southern District Of Mississippi

US BANKRUPTCY COURT  
SOUTHERN DISTRICT OF MS  
FILED

2013 JAN -9 PM 4: 33

Kwse

DANNY L. MILLER

Case No: 10-51669-NPO

BY \_\_\_\_\_ DEPUTY

In re: Amanda Mills/Aycock/Garcino/Noel )  
Debtor )

Ian Michael Garcino )  
Plaintiff )

Amanda Mills/Aycock/Garcino/Noel )  
Defendant )

Chapter 7

MOTION TO REOPEN BANKRUPTCY CASE TO DETERMINE  
DISCHARGEABILITY OF DEBT

CREDITOR, Ian Garcino Pro-Se hereby moves this Honorable Court for an order to reopen this Chapter 7 case pursuant to 11 U.S.C. §350(b) to file a motion under Rule 4007(b) and in support thereof, states as follows:

1. The bankruptcy case was commenced on July 22, 2010 under Chapter 7 of the United States Bankruptcy Code.
2. The Debtor was granted a general discharge pursuant to 11 U.S.C. §727 on January 4, 2011 in this bankruptcy court and the case is now closed.
3. The Creditor was listed as a creditor on the Debtors Schedule F (#8) (Exhibit 1) as being owed a property settlement amount unknown.
4. The property settlement listed in Schedule F is from a divorce decree dated December 18, 2008 and has not been satisfied as of this date of filing the Motion To Reopen Bankruptcy Case to Determine Dischargeability of Debt.
5. The Creditor filed a Writ of Execution against held assets of the Debtor on July 22, 2011 (Exhibit 3).
6. The Writ of Execution was stayed by an Order from the Honorable Jaye Bradley of the Jackson County Mississippi Chancery Court on September 12, 2011 (Exhibit 2).
7. The Order stated that the debt owed to this Creditor was discharged in this Bankruptcy Court on January 4, 2011.

8. The Creditor states that under the Bankruptcy Code the following sections apply post BAPCPA: §101(14A) a domestic support obligation, §523(a)(5) and §523(a)(15) and §522(f)(1)(a).
9. The Creditor believes attendance and involvement of the Trustee on this case Kimberly Lentz is not required, but the Creditor has noticed the Trustee.

The Creditor, Ian Garcino respectfully prays the Honorable Court grant this Motion to Reopen Bankruptcy Case To Determine Dischargeability Of Debt under Rule 4007(b) and issue an Order. The Creditor respectfully requests this Court to waive the fee to reopen to file a Rule 4007(b) pursuant to 28 U.S.C. § 1930. The Creditor has noticed the affected Debtor, Debtor's attorney of record and the Trustee with the required twenty-one (21) days notice from the date of this filing.

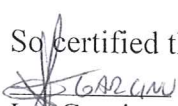
Respectfully submitted this the 8 day of January 2013.

  
Ian Garcino  
13628 Wolf River Road  
Gulfport, MS 39503  
(228) 861-5078

#### Certificate of Service

I, Ian Garcino Creditor Pro-Se do hereby certify I have mailed via USPS a true and correct copy or hand delivered the same of this Motion to the Debtor Amanda Mills/Garcino/Noel at 16200 Roberts Road Vancleave, MS 39565, James Farragut Debtor's attorney of record, Kimberly Lentz-Trustee and I have filed the originals with this court.

So certified this the 8 day of January 2013.

  
Ian Garcino Creditor Pro-Se  
13628 Wolf River Road  
Gulfport, MS 39503 (228) 861-5078

"AMENDED"

EXHIBIT ①

(Official Form 6F) (12/07) - Cont.

1 re Amanda Mirene Noel

Debtor(s)

Case No.

(if known)

SCHEDULE F - CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS

(Continuation Sheet)

Creditor's Name, Mailing Address including Zip Code. And Account Number (See instructions above.)	Co-Debtor H--Husband W--Wife J--Joint C--Community	Date Claim was Incurred, and Consideration for Claim. If Claim is Subject to Setoff, so State.	Contingent	Unliquidated	Disputed	Amount of Claim
Account No 9105 Creditor # : 5 Franklin Collection Services P.O. Box 2300 Tupelo MS 38603-2300	W	collection		X		\$ 131.00
Account No 0100 Creditor # : 6 Great Lakes/KeyCorp P.O. Box 3059 Milwaukee WI 53201-3059	W	Student Loan		X		\$ 7,835.92
Account No 2875 Creditor # : 7 HSECO Best Buy P.O. Box 5244 Carol Stream IL 60197-5244	W	Credit Card Purchases		X		\$ 2,946.00
Account No Creditor # : 8 Jan Gardino 13628 Wolf River Road Gulfport MS 39503	W	property settlement		X		Unknown
Account No Creditor # : 9 Walnet Loan Services P.O. Box 2677 Omaha NE 68103-2677	W	Student Loan		X		\$ 32,886.00
Account No 4140 Creditor # : 10 Pathology Laboratory Associates P.O. Box 180105 Mobile AL 36616	W	Medical Bills		X		\$ 50.00
Subtotal \$						\$ 43,868.92
Total \$						

Sheet No 1 of 3 continuation sheets attached to Schedule of Creditors Holding Unsecured Nonpriority Claims

Use only on last page of the completed Schedule F. Report to the Bankruptcy Court, Schedule and, if applicable, on the Statistical Summary of Certain Creditors and Related.

EXHIBIT ②

IN THE CHANCERY COURT OF JACKSON COUNTY, MISSISSIPPI

AMANDA (MILLS/GARCINO) NOEL

PLAINTIFF

VERSUS

FILED

MB 756 Pg. 50475  
SEP 12 2011

NO: 2005-2207JB

IAN MICHAEL GARCINO

TERRY MILLER/CLERK  
By *[Signature]*

DEFENDANT

ORDER

THIS DAY this cause having come on for hearing on Plaintiff's Motion for Stay of Writ of Execution and Defendant's Motion to Proceed Forma Pauper and the Court having duly considered same and upon being fully advised on the merits finds as follows:

1. IT IS ORDERED: The Court has continuing jurisdiction over the parties and the subject matter hereto.
2. IT IS ORDERED: The Writ of Execution filed herein on July 22, 2011, is hereby stayed. The Sheriff of Jackson County, Mississippi, is Ordered to immediately cease any actions in attempting to execute said Writ, as the debt owed to the Defendant by the Plaintiff was discharged in United States Bankruptcy Court on January 14, 2011.

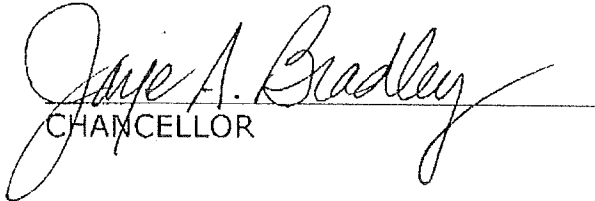
RECEIVED

SEP 12 2011

JAYE A. BRADLEY  
CHANCERY COURT JUDGE

3. IT IS ORDERED: The Defendant's Motion to Proceed Forma  
Pauper is hereby denied.

SO ORDERED AND ADJUDGED, this the 12<sup>th</sup> day of September, 2011.

  
CHANCELLOR

Attested  
To be a true copy of original Order  
Filed Sept 12 20 11  
Terry Miller, Chancery Clerk  
Jackson County, Mississippi  
By Carol Whitefield D.C.

ORDER PREPARED AND SUBMITTED BY:

HON. CALVIN TAYLOR  
MS BAR NO. 09529



EXHIBIT 3

IN THE CHANCERY COURT OF JACKSON COUNTY, MISSISSIPPI

AMANDA (MILLS/GARCINO) NOEL (Judgment Debtor) PLAINTIFF

Versus

Cause No. 2005-2207 JB

IAN M. GARCINO (Judgment Creditor) DEFENDANT

WRIT OF EXECUTION-FIERI FACIAS

TO THE STATE OF MISSISSIPPI TO THE SHERIFF OF JACKSON COUNTY,  
MISSISSIPPI:

YOU ARE HEREBY COMMANDED TO SEIZE AND SELL that of goods, chattels,  
lands and tenements in your county and district belonging to:

AMANDA (MILLS/GARCINO) NOEL-Judgment Debtor  
16200 and 16000 ROBERTS ROAD  
VANCLEAVE, MS 39565

You cause to be made and levied as well as a certain debt in Jackson County  
Chancery Court, state of Mississippi, before the Judge of said Court by consideration of  
the same Judge lately recovered against the said Amanda (Mills/Garcino) Noel, and the  
costs that may accrue under this writ and that you have listed monies at the place and  
listed below, and you bring this writ with you.

Whereas, this writ orders you to recover from the Amended Judgment of Divorce  
filed and dated December 16, 2008 awarded to Ian Garcino monies in the amount of  
\$26,020.82 that were ordered to be paid within 60 DAYS of filing of the Amendment  
Judgment of Divorce. This Judgment was enrolled with Jackson County, MS and this  
Court on May 1<sup>st</sup>, 2011.

Property Real and Personal to take possession of **FOR SALE at auction** to satisfy  
the monetary judgment of \$26,020.82, plus fees awarded, minus all legal allowed

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exemptions all by Mississippi Code Section 85-3-1 & Section 85-3-21 in filing is to include all listed below:

**Real Property** located at 16000 Roberts Road, Vancleave Ms, 39565 that is non-exempt property valued at \$14,500.00 with "0" balance or lien legally described as:

**PARCEL** 02236090.055 **ADDRESS** 16000 ROBERTS RD Vancleave, MS 39565  
BEG NWC NE1/4 NW1/4 SECT 36 S 200' S 89\* E 395.47' N 200' N 89\* W 401.60' TO  
POB DB 1286-707 (46.01 Map577.36) 1.82 Acres

**AND**

**PARCEL** 02225070.060 **ADDRESS** 16000 ROBERTS RD Vancleave, MS 39565  
BEG SWC SE1/4 SW1/4 SECT 25 RD N 20' S 89\* E 401.60' S 20' N 89\* W 401.60' TO  
POB DB 1286-707 (56.01 Map577.25) 1.8 Acres.

**AND**

**Personal Vehicle Property** located at 16200 Roberts Road, Vancleave, MS 39565 as being:

One (1) 2003 Porsche Cayenne S, SUV light blue in color (Lapis Blue Metallic), MS valued at \$16,000, non-exempt, and no lien or balanced owed. Vehicle Identification Number \_\_\_\_\_.

**AND**

**Personal Bank Accounts** belonging to and in the name(s) of any of the above names of Amanda (Mandi) Mills/Garcino/Noel at Regions Bank, 811 Bienville Boulevard Ocean Springs, MS 39564 (800) 734-4667 **AND** Singing River Federal Credit Union, 6006 Mississippi Highway 63 Moss Point, MS 39563 (228) 475-9531 whether joint or sole ownership subject to all exemptions allowed by law.

The plaintiff has not made any attempt to satisfy this judgment and the judgment is not satisfied and therefore the Defendant respectfully prays that by the granting of this Writ of Execution will satisfy the judgment in the only way possible through the resulting actions of the Plaintiff and if not the Defendant will be endangered and impeded.

The Defendant informs, believes and states that these properties both real and personal are not exempt from seizure under Section 85-3-1 of the Mississippi Code. The Judgment Debtor must state the exemptions under Mississippi Code Section 85-3-3 to

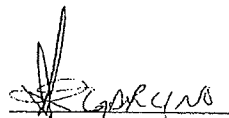
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which they may be entitled to and is entitled to Mississippi Code Section 85-3-9 if so desired.

The Defendant Ian Garcino has no belief or evidence that this judgment has been discharged in the U.S. Bankruptcy Court Southern District or is stayed according to the U.S. Bankruptcy Laws.

The Defendant states that an unknown interest in the stated real and personal property may be in the name of Jerry and/or Faye Mills, located at 16200 Roberts Rd, Vancleave MS 39565.

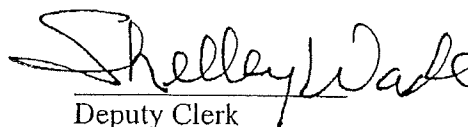
So certified that the above stated facts are true and correct under the laws of Mississippi this 22nd day of July 2011 by Ian M. Garcino-Judgment Creditor (Defendant) 1749 James Buchanan Drive, Biloxi, Mississippi, 39531 in this above and styled cause.



Ian M. Garcino

Witness my signature this on this the 22nd day of July 2011.

SEAL OF THE COURT

  
Deputy Clerk

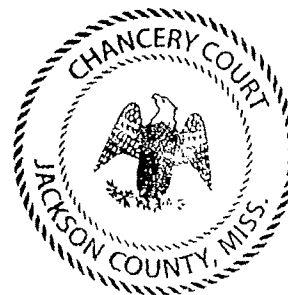
**Total amount for execution** (includes monies, fees and any other costs awarded including sheriff's costs)

Principal	\$26,020.82
Court Fees	_____
Sheriff Fees	_____
Interest	_____
Payments made	_____

**Total to recover** \$ \_\_\_\_\_

Place: \_\_\_\_\_  
City: \_\_\_\_\_

County: \_\_\_\_\_  
Date: \_\_\_\_\_



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